# SEVENTY-FIRST DAY

(Thursday, May 18, 1939)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Stevenson.

The roll was called, and the following Senators were present:

Aikin Moore Beck Nelson Brownlee Pace Burns Redditt Collie Roberts Small Cotten Graves Spears Hardin Stone Head of Galveston Hill Stone Isbell of Washington Kelley Sulak Van Zandt Lanning Lemens Weinert Metcalfe Winfield Moffett

# Absent—Excused

Martin

Shivers

A quorum was announced present.

The invocation was offered by the Chaplain.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

## Leaves of Absence Granted

Senator Martin was granted leave of absence for today and tomorrow on account of important business, on motion of Senator Aikin.

Senator Shivers was granted leave of absence for today on account of important business, on motion of Senator Burns.

# Reports of Standing Committees

The following committee reports were submitted by the chairmen whose names are signed thereto:

Austin, Texas, May 18, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

H. B. No. 85, A bill to be entitled "An Act making an appropriation to pay the apportionment to all counties in this State in which the officers are compensated on a salary basis as provided in Section 6, Sub-section (a), Chapter 465, Acts of the Fortyfourth Legislature, Second Called Session; making an appropriation to all such counties having a Criminal District Attorney or a County Attorney performing the duties of the District Attorney as provided in Section 13, Sub-section (b), Chapter 465, Acts of the Forty-fourth Legislature, Second Called Session; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

ROBERTS, Chairman.

Austin, Texas, May 17, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Agriculture, to whom was referred

H. B. No. 950, A bill to be entitled "An Act to amend Sections 2, 4, 5, 7, and 8b and to repeal Section 8 of House Bill No. 557, Acts of the Regular Session of the Forty-fifth Legislature of the State of Texas as amended by Senate Bill No. 24 of the First Called Session of the Forty-fifth Legislature and House Bill No. 78 of the Acts of the First Called Session of the Forty-fifth Legislature; etc., and declaring an emergency,"

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

SULAK, Chairman.

# Senate Bill on First Reading

Senator Hill moved that the legislative rule relative to the introduction of bills after the first 60 days of the Regular Session of the Legislature be suspended to permit his introducing a general bill at this time.

The motion prevailed by the following vote:

Yeas-26

Aikin

Brownlee

Burns Nelson Collie Pace Cotten Redditt Graves Roberts Hardin Small Hill Spears Isbell Stone of Galveston Kelley Lanning Stone of Washington Lemens Metcalfe Sulak Van Zandt Moffett Moore Winfield

Nays—1

Weinert

Absent

Beck

Absent—Excused

Head

Shivers

Martin

The following bill then was introduced, read first time, and referred to the committee indicated:

# By Senator Hill:

S. B. No. 467, A bill to be entitled "An Act making it a felony punishable by confinement in the penitentiary for any person directly, or as an agent or employee for another, or through an agent or agents, engaged in the business of lending money or credit, or purchasing salaries, to knowingly collect interest, as that term is defined by law, in excess of ten per cent per annum; providing that any place where such business is conducted and such interest in excess of ten per cent per annum is knowingly collected shall be a common nuisance and that any person who knowingly maintains or assists in maintaining such place is guilty of maintaining a nuisance; providing for the issuance of an injunction to abate such nuisance; providing that it is the intention of the Legislature to enact each section separately irrespective of the validity of any other section; repealing all laws in conflict herewith; and declaring an emergency."

Referred to Committee on Criminal Jurisprudence.

## Senate Concurrent Resolution 54

Senator Redditt offered the following resolution:

Be it Resolved by the Senate of Texas, the House of Representatives concurring, That J. W. Millard is here-

by authorized to file suit against the State Highway Department and the State of Texas in the District Court of Nacogdoches County, Texas to determine the damages, if any, he is entitled to recover; and that in the event said suit is filed service of citation or other necessary process shall be had upon the Chairman of the State Highway Commission and the Attorney General of the State of Texas, and that said case shall be tried as all other civil cases reserving to either party the right of appeal, and if final judgment is rendered against the State of Texas and the State Highway Department, the State Highway Commission is hereby authorized and empowered to pay same out of State Highway Funds, and there is hereby appropriated out of State Highway Funds not otherwise appropriated a sufficient amount to pay said final judgment, if any, which might be recovered by the said J. W. Millard.

Be it further Resolved, That this resolution is in no manner an admission of any liability, but is for the sole and only purpose of giving the authority and consent to sue the State of Texas and the State Highway Department.

The resolution was read; and on motion of Senator Redditt and by unanimous consent, it was considered immediately.

The resolution was adopted.

# Motion to Set Senate Bill 257 as a Special Order

Senator Spears moved that S. B. No. 257 be set as a special order for 10:30 o'clock a. m., Monday, May 22,

The motion was lost by the following vote (not receiving the necessary two-thirds vote):

# Yeas—16

Burns	Moffett
Cotten	Moore
Graves	Pace
Hardin	Spears
Hill	Stone
Isbell	of Galveston
Lanning	Sulak
Lemens	Winfield
Metcalfe	

Nays-11

**Brownlee** 

Aikin

Head Small
Kelley Stone
Nelson of Washington
Redditt Van Zandt
Roberts Weinert

#### Absent

Beck Collie Shivers

Absent—Excused

Martin

## Message from the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives, Austin, Texas, May 18, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill and resolutions:

S. B. No. 464, A bill to be entitled "An Act providing for the jurisdiction of the County Court of Duval County; conferring upon said Court complete civil and criminal jurisdiction and general jurisdiction of the probate court due said court under the Constitution and General Laws of Texas; conforming the jurisdiction of the District and Justice Courts of said county to such change; repealing Chapter 60 of the Acts of the Forty-third Legislature, First Called Session and all other laws and parts of laws in conflict with this Act; and declaring an emergency."

The House has adopted the Conference Committee report on S. B. No. 9 by a vote of 130 ayes and 6 noes.

H. C. R. No. 142, Granting Susan Robertson, et al., the right to sue the State.

H. C. R. No. 150, Requesting the State Highway Department to specify the use of products or materials produced or manufactured in Texas in the construction and maintenance of the system of State Highways.

Respectfully submitted, E. R. LINDLEY,

Chief Clerk, House of Representatives.

# House Bill 72 Set as Special Order

Senator Roberts moved that H. B. No. 72 be set as a special order for Monday, May 22, 1939, immediately after conclusion of the morning call on that day.

The motion prevailed by the following vote:

#### Yeas-24

Aikin Nelson Brownlee Pace Burns Redditt Collie Roberts Cotten Small Hardin Stone of Galveston Head Hill Stone of Washington Isbell Lanning Sulak Van Zandt Metcalfe Moffett Weinert Moore Winfield

Nays-4

Graves Lemens Kelley Spears

Absent

Beck

Martin

Absent—Excused
Shivers

# Senate Bill on First Reading

Senator Metcalfe moved that the rule relative to the introduction of bills after the first 60 days of the Regular Session of the Legislature be suspended to permit his introducing a general bill at this time.

The motion prevailed by the following vote:

# Yeas—28

Aikin Moore Brownlee Nelson Pace Burns Collie Redditt Roberts Cotten Graves Small Spears Hardin Head Stone Hill of Galveston Stone Isbell of Washington Kelley Sulak Lanning Van Zandt Lemens Metcalfe Weinert Winfield Moffett

#### Absent

Beck

Absent-Excused

Martin

Shivers

The following bill then was introduced, read first time, and referred to the committee indicated:

# By Senator Metcalfe:

S. B. No. 468, A bill to be entitled "An Act amending Section 2 of House Bill 329, the same being Chapter 67, Acts of the Regular Session of the Forty-fourth Legislature, 1935, by adding thereto certain provisions, providing for the registration and licensing of Registered Tuberculosis Nurses (R. T. N.), who are graduates of the State Tuberculosis Sanatorium School of Nursing, requiring three years' training for future graduates, requiring the payment of fees, authorizing such licensed nurses to practice in the State of Texas, providing that if any provision of this Act is declared invalid, it shall not invalidate the other provisions thereof; and declaring an emergency."

Referred to Committee on Public Health.

# Report of Conference Committee on Senate Bill 206 Adopted

Senator Kelley moved that the report of the Conference Committee on S. B. No. 206, submitted on May 15, 1939, and printed in the Journal of that day, be adopted.

The motion prevailed by the following vote:

## Yeas-25

Brownlee Pace Redditt Burns Roberts Cotten Graves Small Hardin Spears Stone Head of Galveston Isbell Kellev Stone of Washington Lanning Sulak Lemens Metcalfe Van Zandt Moffett Weinert Moore Winfield Nelson

Nays-2

Aikin

Collie

Present-Not Voting

Hill

Absent

Beck

Absent—Excused

Martin

Shivers

# House Bill 190 Set as a Special Order

Senator Nelson moved that H. B. No. 190 be set as a special order for Monday, May 22, 1939, immediately after completion of the morning call on that day.

The motion prevailed by the following vote:

# Yeas-24

Moore Aikin Nelson Beck Pace Brownlee Redditt Cotten Roberts Graves Small Head Hill Stone Isbell of Galveston Kelley Stone of Washington Van Zandt Lanning Lemens Weinert Metcalfe Moffett Winfield

Nays—5

Burns Collie Hardin Spears Sulak

Absent-Excused

Martin

Shivers

# Motion to Set Senate Bill 322 As a Special Order

Senator Small moved that S. B. No. 322 be set as a special order for tomorrow immediately after conclusion of the morning call on that day.

The motion was lost by the following vote (not receiving the necessary two-thirds vote):

# Yeas-14

Brownlee	Nelson
Burns	Pace
Collie	Small
Cotten	Stone
Graves	of Washington
Hardin	Sulak
Head	Van Zandt
Lamans	

Nays-13

Aikin Melain Mel

Moore Roberts Spears Stone

of Galveston Weinert Winfield

Absent

Kelley

Metcalfe

Moffett

Redditt

Absent—Excused

Martin

Shivers

# Motion to Set House Bill 50 As a Special Order

Senator Moore moved that H. B. No. 50 be set as a special order for Monday, May 22, 1939, immediately after conclusion of the morning call on that day.

Pending debate of the motion, Senator Spears raised a point of order against its further consideration at this time, on the ground that this being House Bill day, the morning call is not concluded until after disposal of House bills on the calendar and that a motion to set a bill as a special order may not be made until the morning call has been concluded.

The President sustained the point of order.

Senator Moore moved that the rule that prevents the making of a motion during the morning call to set a bill as a special order be suspended to allow a motion to be made at this time to set H. B. No. 50 as a special order.

The motion was lost by the following vote (not receiving the necessary vote required under the rules of the Senate):

Yeas-17

Brownlee Collie Cotten Graves Head Kelley Lemens Metcalfe Moore Redditt Small Stone

of Washington
Van Zandt
Winfield

Nays-12

Aikin Beck Burns Hardin Hill Isbell Lanning Moffett Pace Spears Stone

of Galveston

Sulak

Absent

Nelson Roberts Weinert

Absent—Excused

Martin

Shivers

## Bills Signed

The President signed, in the presence of the Senate, after their captions had been read, the following enrolled bills:

- S. B. No. 206, "An Act to simplify proceedings in delinquent tax suits; providing for a simplified form of petition; providing that such petition need not be verified; providing for a simplified form of citation; and declaring an emergency."
- S. B. No. 464, "An Act providing for the jurisdiction of the County Court of Duval County; conferring upon said Court complete civil and criminal jurisdiction and general jurisdiction of the probate court due said Court under the Constitution and General Laws of Texas; conforming the jurisdiction of the District and County Courts of said county to such change; repealing Chapter 6 of the Acts of the Forty-third Legislature, First Called Session and all other laws and parts of laws in conflict with this Act; and declaring an emergency."

## House Bill 688 on Passage to Third Reading

(Special Order)

The President laid before the Senate, as the unfinished special order, on its passage to third reading (the bill having been read second time on Tuesday, May 16, 1939):

H. B. No. 688, A bill to be entitled "An Act to amend Sections 1 and 6 of Chapter 13, Acts of the Third Called Session of the Forty-second Legislature, and to amend Section 7 of Chapter 13, Acts of the Third Called Session of the Forty-second Legislature, as amended by Chapter 136, Acts of the Regular Session of the Forty-third Legislature, as amended by Chapter 117, Acts of the First Called Session of the Forty-third Legislature, as a mended by

Chapter 326, Acts of the Regular Session of the Forty-fourth Legislature, and as amended by Chapter 370, Acts of the Regular Session of the Fortyfifth Legislature, relative to the Board of County and District Road Indebtedness; and providing that if any portion hereof be unconstitutional or invalid for any reason, the remaining part shall, nevertheless, be in full force and effect; repealing all laws or parts of laws in conflict herewith, and declaring an emergency.'

Question—Shall the bill as amended be passed to third reading?

Senator Sulak offered the following amendment to the bill:

Amend the bill as amended by amending Section 7 (a) of the proposed Act to read hereafter as fol-

"Section 7. (a) All bonds, warrants or other evidence of indebtedness heretofore issued by counties, cities or defined road districts of this State, insofar as amounts of same were issued for, and the proceeds have been actually expended in the construction of roads that constituted and comprised a part of the system of designated State highways on September 17, 1932, or which subsequent to such date, and prior to January 1, 1939, have been designated a part of the system of State highways, or any road that heretofore has constituted a part of said system, and which has been or may be changed, relocated or abandoned, whether said indebtedness is now evidenced by the obligations originally issued or by refunding obligations or both, shall be eligible to participate as of January 1, 1933, in the distribution of the moneys coming into said County and Road District Highway Fund subject to the provisions of this Act. The participation of the city bonds hereinabove referred to contemplates the inclusion of only such bonds as were issued for and the proceeds actually expended in aiding and fur-thering the construction of roads, highways and bridges as an integral part of the designated highway system of the State, within or without the corporate limits of such issuing municipalities; provided that such indebtedness, the proceeds of which have been expended in the construction of roads which have been desig-

System after September 17, 1932, and prior to January 1, 1939, shall participate in said County and Road District Highway Fund as of the date of designation of said road as a part of the State system; provided, that all bonds voted by a county or defined road district of the State, prior to January 1, 1939, insofar as amounts of same were or may be issued and the proceeds expended in the construction of roads which are a part of the designated system of State highways, or which were a part of said system, or which may be subsequently designated a part of said system, shall be eligible to participate in the distribution of the moneys coming into the County and Road District Highway Fund as provided in the foregoing and following pro-visions of this Act as of the date of the designation of said road as a part of the State system. Regardless of other provisions of this Act, where such bonds were voted prior to January 1, 1939 and prior to the designation of the road as a part of the State Highway System, the country ty or road district may issue and spend the proceeds on the construction of such road under contract and specifications to be approved by the State Highway Engineer, and such bonds shall be eligible to participate in the County and Road District Highway Fund the same as if the bonds were issued and expended prior to January 1, 1939; provided further, that any participation in said Fund by all counties and defined road districts shall be less the amount of the sinking funds which were re-quired to be accumulated in such funds of the respective counties and defined road districts under the provisions of the statutes and orders of the commissioners' court authorizing the issuance of said eligible obligations, and the tax levy authorized at the time of issuance thereof, for the time such obligations have run or may have run, regardless of whether the full amount of said funds are, or may be, actually on hand and to the credit of the sinking funds of the several counties and defined road districts. It being expressly provided in this connection that the term 'sinking funds' shall include only those funds required under law for the retirement of bonds, and shall not include any excess or surplus which may nated as a part of the State Highway | have been accumulated by any county

or defined road district above the legal requirements. The amount of such eligible indebtedness shall be determined as hereafter provided. Provided further, that no State funds created or provided for by the terms of this Act, shall be expended in the payment of any interest maturing on the amount of sinking funds required by the terms of this Act to be accumulated by the county or defined road district at the date of eligibility of its obligations. In the event the State Highway Commission has, on a date prior to January 1st, 1939. indicated its intention of designating as State highways the public roads of any county or defined road district in this State, and has recorded such intention in its official records, then the provisions of this Act shall apply as if the said roads had actually been designated prior to January 1st,

Question—Shall the amendment be adopted?

Senator Moore moved to reconsider the vote by which the amendment to the bill, offered by Senator Small on yesterday, was adopted.

## Senate Resolution 83

Senator Hill, by unanimous consent, offered at this time the following resolution:

Whereas, There resides in Austin the last known living white man who was in a position of authority and responsibility in the construction of our magnificent Capitol Building, and

Whereas, This man, Ernst Hoffman, was born in Posen, Poland, on April 1st, 1851, and came to America in February, 1885, making his residence in Austin, Texas, on March 1st of the same year, and was immediately employed as a master craftsman in the construction of the Capitol Building, and thereafter became foreman of woodwork and ironwork construction on said building, and has since that time made his home and reared a family of children, who, like their father have been gifted, not so much in the matter of accumulation of material things but who have been outstanding in those cardinal virtues,
—industry, integrity and independence, which virtues on the part of our people made America what it is today, and

Whereas, Ernst Hoffman, having

attained the age of eighty-eight is now, and has been, since the year 1900 in the employ of the University of Texas as head cabinet maker, and despite his advanced years, is still active and industrious and exemplifies all the fine things that contribute

to good citizenship, and Whereas, Certain members of the State Senate, in recognition of the service that Ernst Hoffman has rendered to his adopted State and Country, and as a tribute generally to the value of this type of citizen who has gone his way in a quiet, unassuming manner, who, together with his good wife, who is now deceased, has reared a substantial family; contributed his part to the upbuilding of this State; served faithfully and well in an obscure position, and who now at the age of 88 years, far past the time when men ordinarily retire from active service is still faithful and diligent in the discharge of his duty, have had a photograph made and framed to do just honor to Mr. Hoffman as a merited recognition of those splendid virtues which he so well and understandingly exemplifies, now, therefore, be it

Resolved by the Senate of the State of Texas, That this picture of Ernst Hoffman be received by this body, and by the Secretary thereof turned over to the custody of the Board of Control with the request to said Board that this picture be hung in an appropriate place in the Capitol Building as an appropriate recognition, not only of the service of Mr. Hoffman himself, but of the spirit that he, in his life, represents.

HILLISBELL.

The resolution was read, and by unanimous consent, it was considered at this time and was adopted.

## Motion to Recess

Senator Hill moved that the Senate recess to 2:00 o'clock p. m. today.

Yeas and nays were demanded, and the motion was lost by the following

# Yeas-14

Beck	Hill
Burns	Isbell
Graves	Lanning
Hardin	Metcalfe
Head	${f Nelson}$

Spears Stone of Galveston Stone of Washington Sulak

Nays-14

Aikin **Brownlee** Collie Cotten Kelley Lemens Moffett

Moore Pace Redditt Roberts Small Van Zandt Winfield

Absent

Weinert

Absent—Excused

Martin

Shivers

# Message from the Governor

(Veto of S. B. No. 54)

The President laid before the Senate and had head, the following message from the Governor:

Austin, Texas, May 18, 1939.

To the Members of the Senate of the Forty-sixth Legislature:

I am returning herewith without my approval Senate Bill No. 54. This Act provides for the State of Texas donating free college tuition to a maximum of one hundred citizens of foreign countries annually. From the standpoint of fostering friendly relations with our neighbors, the idea is commendable but I am of the opinion that we should level our laudable ambitions with our pocketbook, and inasmuch as our General Fund is around 17 million dollars in the red I am of the opinion that we should postpone our noble donating impulses until we have some money.

Furthermore, while we are providing education I feel that our first obligation is to the boys and girls in Texas and until we can sincerely say that we have adequately provided for the education of all of our own boys and girls in Texas I do not believe we should offer to donate our educational facilities to outsiders.

> W. LEE O'DANIEL. Governor of Texas.

# Adjournment

Senator Roberts moved that the Senate adjourn until 10:00 o'clock a. m. tomorrow.

Yeas and nays were demanded, and the motion was lost by the following vote:

#### Yeas-12

Collie Cotten Lemens Moffett Moore Pace •

Redditt

Roberts Small Stone of Washington Van Zandt

Winfield

Nays—15

Aikin Beck Brownlee Burns Graves Hardin Head Hill

Isbell Kelley Lanning Metcalfe Nelson Spears Stone of Galveston

Absent

Sulak

Weinert

Absent—Excused

Martin

Shivers

Senator Lemens moved that the Senate adjourn until 10:00 o'clock a. m. tomorrow.

Yeas and nays were demanded, and the motion prevailed by the following

Yeas-14

Brownlee Collie Cotten Isbell Kelley Lemens Moore

Redditt Roberts Small Stone

of Washington Van Zandt Winfield

Pace

Nays-11

Aikin Burns Graves Hardin Head Hill

Lanning Nelson Spears Stone

of Galveston Sulak

Absent

Beck Metcalfe Moffett Weinert

Absent—Excused

Martin

Shivers

The Senate, accordingly, at 12:20 o'clock p. m., adjourned until 10:00 o'clock a. m., tomorrow.

#### APPENDIX

# Reports of Committee on Enrolled Bills

Austin, Texas, May 18, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 206 carefully examined, compared and read, and find same correctly enrolled.

STONE of Galveston, Chairman.

Austin, Texas, May 17, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 464 carefully examined, compared and read, and find same correctly enrolled.

STONE of Galveston, Chairman.

## SEVENTY-SECOND DAY

(Friday, May 19, 1939)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Stevenson.

The roll was called, and the following Senators were present:

Aikin Moore Beck Nelson Brownlee Pace Roberts Burns Collie Shivers Cotten Small Spears Graves Hardin Stone Head of Galveston Stone Hill of Washington Isbell Sulak Kelley Van Zandt Lanning Weinert Lemens Metcalfe Winfield Moffett

Absent—Excused

Martin

Redditt

The invocation was offered by the Chaplain.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

# Leave of Absence Granted

Senator Redditt was granted leave of absence for today, on account of important business, on motion of Senator Pace.

# Senate Bill on First Reading

The following bill was introduced, read first time, and referred to the committee indicated:

# By Senator Moffett:

S. B. No. 469, A bill to be entitled "An Act creating a Special Road Law for Hardeman County, Texas, providing that said County may fund or refund the indebtedness outstanding against its Road and Bridge Fund as of May 1, 1939, by the issuance of funding bonds; providing that items of indebtedness as of said date, in the form of scrip, time warrants, or funding warrants, may be included in such funding bond issue; setting forth the method of issuing such funding bonds; validating all acts of the Commissioners Court and of the county officials of said County in issuing said scrip or warrants; validating said scrip or warrants; providing that the General Laws pertaining to roads and bridges shall be applicable to said County when not in conflict with the provisions hereof; repealing all laws and parts of laws in conflict herewith; enacting provisions incident and relating to the subject and purpose of this Act; and declaring an emergency."

Referred to Committee on Counties and County Boundaries.

# House Concurrent Resolution 150

The following resolution, previously received from the House, was laid before the Senate, read first time, and referred to the committee indicated:

H. C. R. No. 150, to the Commit-A quorum was announced present. | tee on Highways and Motor Traffic.